

Senate Bill No. 1440

CHAPTER 1112

An act to amend Sections 753 and 3373 of the Financial Code, relating to banks.

[Approved by Governor September 29, 1996. Filed
with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1440, Killea. Banks: regulations.

(1) Existing law authorizes the Superintendent of Banks to adopt, by regulation, any provision of federal law applicable to national banking associations or certain foreign banks operating in this state if the superintendent finds that those federal provisions are substantially different from the provisions of state law applicable to banks organized or licensed under California law, as specified. These regulations are exempted from the procedures otherwise applicable to the adoption of regulations by state agencies, including the regulation review process of the Office of Administrative Law.

This bill would provide that any regulation adopted under these provisions expires at 12 p.m. on December 31 of the year following the calendar year in which it became effective and would prohibit the commissioner from renewing or reinstating the regulation or adopting a new regulation addressing the same conformity issue as addressed by the expired regulation. The bill would also provide that regulations may be adopted under these provisions that are not subject to the above provisions, if the superintendent complies with all procedures for the adoption of regulations by state agencies, as specified.

(2) Existing banking law dealing with loans to insiders also incorporates by reference certain federal regulations adopted by the Board of Governors of the Federal Reserve System, otherwise known as Regulation O. Existing law authorizes the superintendent to adopt, by regulation, changes adopted by the board to Regulation O, as specified. These regulations are subject to certain provisions governing the adoption of emergency regulations by state agencies but are exempt from the procedures otherwise applicable to the adoption of regulations by state agencies and from the regulation review process of the Office of Administrative Law.

This bill would delete the application of the emergency review process to these regulations relating to Regulation O, thereby conforming their adoption and review process to the process applicable to the banking regulations described in paragraph (1). This bill would also specify the process to be followed by the

superintendent in filing those regulations. The bill would, in addition, permit the adoption of regulations relating to Regulation O that are not subject to the above provisions if the superintendent complies with all the procedures for the adoption of regulations by state agencies, as specified.

The bill would also incorporate additional changes to certain of its provisions proposed by AB 3351, to be operative only if AB 3351 and this bill are both enacted and become effective, as specified, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 753 of the Financial Code is amended to read:

753. (a) (1) In this section, “federal law” includes, but is not limited to, the United States Constitution, any federal statute, any federal court decision, and any regulation, circular, bulletin, interpretation, decision, order, and waiver issued by a federal agency.

(2) The definitions set forth in Section 1700 apply to this section.

(b) (1) Notwithstanding any other provision of law, except as provided in subdivision (c), if the superintendent finds that any provision of federal law applicable to national banking associations doing business in this state is substantively different from the provisions of this code applicable to banks organized under the laws of this state, the superintendent may by regulation make that provision of federal law applicable to banks organized under the laws of this state.

(2) If the superintendent finds that any provision of federal law applicable to foreign (other nation) banks with respect to federal agencies or federal branches in this state is substantively different from the provisions of this code applicable to foreign (other nation) banks with respect to agencies or branch offices licensed by the superintendent under Chapter 13.5 (commencing with Section 1700), the superintendent may by regulation make that provision of federal law applicable to foreign (other nation) banks with respect to agencies or branch offices licensed by the superintendent under Chapter 13.5.

(c) (1) Section 11343.4 and Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code do not apply to any regulation adopted under subdivision (b).

(2) The superintendent shall file any regulation adopted pursuant to subdivision (b), together with a citation to this section as authority for the adoption and a citation to the provisions of federal law made applicable by the regulation, with the Office of Administrative Law



for filing with the Secretary of State and publication in the California Code of Regulations.

(3) Any regulation adopted under subdivision (b) shall become effective on the date when it is filed with the Secretary of State unless the superintendent prescribes a later date in the regulation or in a written instrument filed with the regulation.

(4) Any regulation adopted under subdivision (b) shall expire at 12 p.m. on December 31 of the year following the calendar year in which it becomes effective.

(5) Any regulation adopted pursuant to subdivision (b) shall be subject to the following restrictions:

(A) The superintendent shall not renew or reinstate the regulation adopted pursuant to subdivision (b).

(B) The superintendent shall not adopt a new regulation pursuant to subdivision (b), to address the same conformity issue that was addressed by the regulation that expired pursuant to subdivision (c).

(d) The superintendent may adopt regulations pursuant to subdivision (b) that are exempt from the expiration and restrictions of subdivision (c) if the regulations are adopted in compliance with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, including those listed in paragraph (1) of subdivision (c).

SEC. 1.5. Section 753 of the Financial Code is amended to read:

753. (a) (1) In this section, “federal law” includes, but is not limited to, the United States Constitution, any federal statute, any federal court decision, and any regulation, circular, bulletin, interpretation, decision, order, and waiver issued by a federal agency.

(2) The definitions set forth in Section 1700 apply to this section.

(b) (1) Notwithstanding any other provision of law, except as provided in subdivision (c), if the commissioner finds that any provision of federal law applicable to national banking associations doing business in this state is substantively different from the provisions of this code applicable to banks organized under the laws of this state, the commissioner may by regulation make that provision of federal law applicable to banks organized under the laws of this state.

(2) If the commissioner finds that any provision of federal law applicable to foreign (other nation) banks with respect to federal agencies or federal branches in this state is substantively different from the provisions of this code applicable to foreign (other nation) banks with respect to agencies or branch offices licensed by the commissioner under Chapter 13.5 (commencing with Section 1700), the commissioner may by regulation make that provision of federal law applicable to foreign (other nation) banks with respect to agencies or branch offices licensed by the commissioner under Chapter 13.5.

(c) (1) Section 11343.4 and Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code do not apply to any regulation adopted under subdivision (b).

(2) The commissioner shall file any regulation adopted pursuant to subdivision (b), together with a citation to this section as authority for the adoption and a citation to the provisions of federal law made applicable by the regulation, with the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(3) Any regulation adopted under subdivision (b) shall become effective on the date when it is filed with the Secretary of State unless the commissioner prescribes a later date in the regulation or in a written instrument filed with the regulation.

(4) Any regulation adopted under subdivision (b) shall expire at 12 p.m. on December 31 of the year following the calendar year in which it becomes effective.

(5) Any regulation adopted pursuant to subdivision (b) shall be subject to the following restrictions:

(A) The commissioner shall not renew or reinstate the regulation adopted pursuant to subdivision (b).

(B) The commissioner shall not adopt a new regulation pursuant to subdivision (b), to address the same conformity issue that was addressed by the regulation that expired pursuant to subdivision (c).

(d) The commissioner may adopt regulations pursuant to subdivision (b) that are exempt from the expiration and restrictions of subdivision (c) if the regulations are adopted in compliance with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, including those listed in paragraph (1) of subdivision (c).

SEC. 2. Section 3373 of the Financial Code is amended to read:

3373. (a) Notwithstanding any other provisions of this article, whenever Section 215.2, 215.3, 215.4, 215.5, 215.7, or 215.8 is changed by the Board of Governors of the Federal Reserve System, the superintendent may by regulation adopt that same change. Any regulation adopted under this section shall expire at 12 p.m. on December 31 of the year following the calendar year in which it becomes effective.

(b) (1) Section 11343.4 and Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code do not apply to any regulation adopted under subdivision (a).

(2) The superintendent shall file any regulation adopted pursuant to subdivision (a), together with a citation to subdivision (a) as authority for the adoption and a citation to the provisions of federal law made applicable by the regulation, with the Office of

Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(c) A regulation adopted pursuant to subdivision (a) does not expire as provided by subdivision (a) and is not subject to subdivision (b) if the superintendent complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code in adopting the regulation, including those listed in paragraph 1 of subdivision (b).

SEC. 2.5. Section 3373 of the Financial Code is amended to read:

3373. (a) Notwithstanding any other provisions of this article, whenever Section 215.2, 215.3, 215.4, 215.5, 215.7, or 215.8 is changed by the Board of Governors of the Federal Reserve System, the commissioner may by regulation adopt that same change. Any regulation adopted under this section shall expire at 12 p.m. on December 31 of the year following the calendar year in which it becomes effective.

(b) (1) Section 11343.4 and Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code do not apply to any regulation adopted under subdivision (a).

(2) The commissioner shall file any regulation adopted pursuant to subdivision (a), together with a citation to subdivision (a) as authority for the adoption and a citation to the provisions of federal law made applicable by the regulation, with the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(c) A regulation adopted pursuant to subdivision (a) does not expire as provided by subdivision (a) and is not subject to subdivision (b) if the commissioner complies with all of the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code in adopting the regulation, including those listed in paragraph (1) of subdivision (b).

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 753 of the Financial Code proposed by both this bill and AB 3351. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, but this bill becomes operative first, (2) each bill amends Section 753 of the Financial Code, and (3) this bill is enacted after AB 3351, in which case Section 753 of the Financial Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 3351, at which time Section 1.5 of this bill shall become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 3373 of the Financial Code proposed by both this bill and AB 3351. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, but this bill becomes operative first, (2) each bill amends Section 3373 of the Financial Code, and (3) this bill is enacted after AB 3351, in which case Section

3373 of the Financial Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 3351, at which time Section 2.5 of this bill shall become operative.

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